

RECORDS MANAGEMENT AND DOCUMENT RETENTION POLICY 2023- 2026

Policy Control

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Policy Purpose

Derby Homes has a statutory duty to have the appropriate retention period and Article 5(1)(e) of the UK GDPR reinforces the existing retention principle that personal data should not be kept for longer than necessary for the purposes for which the data is processed. Recital 39 of the UK GDPR states Derby Homes should ensure that the period for which the personal data are stored is limited to a strict minimum and in order to ensure that the personal data is not kept longer than necessary, time limits should be established by the controller for erasure.

Personal data may be kept for longer periods however there needs to be a lawful reason for doing so and not a 'kept just in case' scenario. Data may also be stored for longer periods in so far as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes ('storage limitation').

1. Introduction

1.1. This Policy adopts a functional approach, as recommended by the International Standard on Records Management (ISO 15489:2001) and relates to all staff employed by Derby Homes.

1.2. Records can be defined as:

"information created, received and maintained as evidence and information by an organisation or person, in pursuance of legal obligations or in the transaction of business." (BS ISO 15489-1:2001 paragraph 3.15).

Records are described as "...the lifeblood of any organisation... [and] ...the basis on which decisions ...made, services provided and policies developed and communicated." Records contain information that is a valuable [and] important asset. (BS ISO 15489-1:2001 3.15).

1.3. The Code of Practice issued by the Information Commissioner under s 46 of the Freedom of Information Act 2000 specifically requires organisations subject to this legislation to have a Retention and Disposal Policy endorsed by senior management, kept up to date and consideration be given to publishing.

1.4. Records Management policies, procedures and practices should lead to records which are authentic, reliable, have integrity and are usable.

- Authentic, in that it can be proven to be what it says it is, it is created or sent by the person who created it and been created or sent at the time purported.

- Reliable, so they can be trusted as a full and accurate representation of the transactions, activities or facts to which they attest and can be depended on in the course of subsequent transactions or activities.
 - Have integrity by being complete and unaltered.
 - Usable, so it can be located, retrieved, presented and interpreted. It should be capable of subsequent presentation as directly connected to the business activity or transaction that produced it.
- 1.5. Information is one of Derby Homes corporate assets; in the course of carrying out its' various functions, Derby Homes accumulates information from both individuals and external organisations. Derby Homes also generates a wide range of data, which is recorded in documents and records.
 - 1.6. These documents and records are in different formats, examples of which include, (but are not limited to) letters, emails and attendance notes; financial information including invoices, statements and reports; legal documents such as contracts and deeds; and information relating to various types of applications, including forms, plans, drawings and photographs.
 - 1.7. For the purposes of this Policy, the terms 'document' and 'records' include information regardless of format.
 - 1.8. In certain circumstances it will be necessary to retain specific documents in order to fulfil statutory or regulatory requirements and to meet operational needs. Document retention may also be useful to evidence events or agreements in the case of disputes, and to preserve information which has historic value.
 - 1.9. Premature destruction of documents could result in inability to defend litigious claims, operational difficulties and failure to comply with the Freedom of Information Act 2000, Data Protection Law and the Environmental Information Regulations 2004.
 - 1.10. Equally, the retention of all documents and records is impractical and appropriate disposal is encouraged. Disposal will assist Derby Homes to maintain sufficient electronic and office storage space and will de-clutter office accommodation, resulting in a more desirable working environment. Lengthy or indefinite retention of personal information could result in the Derby Homes breaching the Data Protection Law.
 - 1.11. It is important for the above reasons that Derby Homes has systems in place for the timely and secure disposal of documents and records that are no longer required for business, legislative, historical or regulatory purposes.

2. Aims and Objectives

- 2.1. The key objective of this Policy is to provide Derby Homes with a simple framework which will govern decisions on whether a particular document should

be retained or disposed of. In the case of documents which are to be retained by Derby Homes, the Policy states the appropriate retention periods.

- 2.2 Records Management principles recognise records are created, received and used in the conduct of business. Records Management will support the conduct of business, compliance with the regulatory environment, and providing necessary accountability.
- 2.3 Implementation of the Policy should save Derby Homes' officers' time when retrieving information, in particular by reducing the amount of information that may be held unnecessarily.
- 2.4 Defining and documenting Records Management in a policy allows the management of authentic, reliable and usable records, capable of supporting business functions and activities. (BS ISO 15489-1:2001 paragraph.6.2)
- 2.5 The Policy clarifies the different roles of Derby Homes' officers in relation to document retention and disposal in order that they understand their responsibilities, and who to refer to if they are unsure about any document and require clarification.
- 2.6 It is envisaged that this Policy will assist Derby Homes in securing compliance with legal and regulatory requirements, including the Freedom of Information Act 2000, the Environmental Information Regulations 2005, the Data Protection Law and the Code of Practice on the Management of Records under Section 46 of the Freedom of Information Act 2000. In addition to assisting officers in their day-to-day business, this should also ensure that searches for information requested under the Freedom of Information legislation are as quick as possible to ensure that statutory timelines can be adhered to.
- 2.7 Additionally, the Policy should help to ensure that Derby Homes archives records and documents that are of historical value appropriately for the benefit of future generations.

3. Scope

- 3.1. This Document Retention Policy applies to all information held by Derby Homes and its external service providers where they are processing information on Derby Homes' behalf.

4. Policy Statement

- 4.1. Derby Homes will ensure that information is not kept longer than is necessary and will retain the minimum amount of information that it requires to carry out its' statutory functions and the provision of services.

5. Retention and Disposal Policy

- 5.1. Decisions relating to the retention and disposal of documentation should be taken in accordance with this Policy, Appendix 1 and our Record Retention Schedule.
- Appendix 1 - This provides comprehensive guidance on the recommended statutory minimum retention periods for specific types of documents and records along with best practice.
- 5.2 The Record Retention Schedule will be compiled between managers and the Information Governance team, balancing the needs of the service with the policy and legal requirements.
- 5.3 The Record Retention Schedule does not include redundant, obsolete, or trivial (ROT) information. ROT information is data that is no longer relevant or of little to no value to Derby Homes; It should be disposed of periodically as part of general housekeeping by each service department. ROT data can be found on desktops, mobile devices, on-site as physical documents and cloud servers.

Some examples of ROT data include;

- Duplicate records – the retention of duplicate documents can lead to confusion as well as taking up unnecessary storage.
- Draft documents – draft documents can become obsolete once a final version has been published, there may be some occasions where fundamental changes are made and there is value in retaining a draft to show how decisions were made. Out of date documents – as above, out of date data can become obsolete once an updated document is published however there may be exceptions where a record of previous versions is required.

6. Roles and Responsibilities

- 6.1. Specific leadership responsibility and accountability for Records Management should be assigned to a person with appropriate authority. (BS ISO 15489-1:2001 paragraph. (Paragraph 6.3). The responsible person will be Head of Governance & Corporate Services.
- 6.2. Heads of Service will be responsible for determining (in accordance with this Policy) whether to retain or dispose of specific documents within the remit of their service area.
- 6.3. Heads of Service may delegate the operational aspect of this function to one or more officers within their service area.
- 6.4. Heads of Service should seek legal advice if they are uncertain as to whether minimum retention periods are prescribed by law, or whether the retention of a document is necessary to protect Derby Homes and/or the Council's position where a potential claim has been identified.
- 6.5. Heads of Service should ensure that the document retention schedule which is relevant to their service is kept up to date.

- 6.6. All employees are responsible for keeping accurate and complete records of their activities.
- 6.7. As the Retention Schedule is a working document changes and updates for retention must be sent to either the Data Protection Officer or the Information Governance Manager. This will ensure that only the most up to date retention schedule will be available and updates can be managed via a version control document.
- 6.8. Retention periods should also be reflected and governed in Derby Homes' Information Asset Register.

7. Disposal

- 7.1. Confidential waste documents should be made available for collection by use of the confidential waste bins which are located around the Derby Homes offices in order that they can be destroyed. It is essential that any documents which are to be thrown away, and contain confidential or personal data, must be disposed of in this way in order to avoid breaches of confidence or of UK GDPR and the Data Protection Act 2018
- 7.2.

Appendix 1

Why do I need Records Management?

Good management of records will ensure that Derby Homes:

- complies with legislation (UK GDPR, Data Protection Act 2018 and Freedom of information Act 2000)
- can provide evidence of what was done and why.
- is able to minimise the risk of not being able to produce records (i.e. in a legal case)
- will know what records it has and where they are
- can make better use of staff time
- can continue business following a disaster
- is more effective and efficient
- can save on storage costs and space
- is able to improve control of valuable information resources.

There are many pieces of legislation which may affect the way in which you manage records within your department.

As a rule of thumb, most records should be kept for a maximum of six years, which is generally the time limit within which civil claims can be brought against Derby Homes.

Records may be retained for longer periods when they:

- Need to be retained because the information contained in them is relevant to legal action which has been started or is pending. It is the responsibility of the service area to provide information on pending legal action, which should be passed to Legal Services. If such action is pending, a note should be appended to the file stating that the records should not be destroyed. Electronic records, where possible, should be flagged to prevent erasure.
- Are required to be kept longer by statute. A number of Acts and regulations govern the retention of certain types of records. Details are contained within the Records Retention Schedule.
- Are archived for historical purposes.
- Consist of a sample of records maintained for the purpose of retrospective comparison.
- Relate to individuals and providers of services who have, or whose staff have, been judged unsatisfactory.
- Are held in order to provide, for the subject, aspects of his/her personal history.
- Relate to contracts 'under seal' between Derby Homes and a company.

This is a summary of the legislation that is most likely to be relevant to our activities:

Companies Act 1996 (as amended):

- Company Accounts (minimum is creation + 6 years)

Data Protection Act 2018:

The primary responsibility for ensuring that the collection and processing of any set of personal data comply with the Act, and in particular with the Data Protection Principles, rests with the data controller – that is Derby Homes Ltd.

1. Lawful, Fair, and Transparent Data Processing

Data Protection Law seeks to ensure that personal data is processed lawfully, fairly, and transparently, without adversely affecting the rights of the data subject. The regulation states that processing of personal data shall be lawful if at least one of the following applies:

- the data subject has given consent to the processing of his or her personal data for one or more specific purposes;
- processing is necessary for the performance of a contract to which the data subject is a party or in order to take steps at the request of the data subject prior to entering into a contract;
- processing is necessary for compliance with a legal obligation to which the controller is subject;
- processing is necessary to protect the vital interests of the data subject or of another natural person;
- processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;
- processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

2. Processed for Specified, Explicit and Legitimate Purposes

Data is only collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall not be considered to be incompatible with the initial purposes;

3. Adequate, Relevant and Limited Data Processing

Derby Homes will only collect and process personal data that is adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed ('data minimisation');

4. Accuracy of Data and Keeping Data Up To Date

Derby Homes shall ensure that all personal data collected and processed is kept accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay ('accuracy');

5. Timely Processing

Derby Homes will ensure personal data collected and processed is kept no longer than is necessary for the purposes for which the personal data are processed; personal data may be stored for longer periods in so far as the personal data will be processed solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes. ('storage limitation');

6. Secure Processing

Derby Homes shall ensure that all personal data collected and processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures ('integrity and confidentiality').

Good records management will also help when dealing with Data Subjects rights for example Access to Records, Rectification of records and Erasure of personal data.

Equalities Act 2010:

- Advertising of vacancies (filling of vacancy + 6 months)
- Job applicants: successful (Transfer to staff HR file)
- unsuccessful (filling of vacancy + 6/12 months).

Electronic Communications Act 2000:

Provides for legal recognition of electronic signature and the process under which they are generated, communicated or verified.

Environmental Information Regulations 2004:

Gives individuals the right to access environmental information held by Derby Homes.

Freedom of Information Act 2000:

Gives individuals the right to access information held by Derby Homes unless there are reasons for an exemption.

Health and Safety at Work Act 1974:

Stipulates statutory minimum retention periods for records relating to:

- Risk Assessment (review + 3 years)
- Control of and use of hazardous substances (file closure +40 years)
- Monitoring of employees' health (creation +40 years) – but our policy is file closure plus 40 years.
- Accident books (completion + 3 years)
- Accident/ dangerous occurrence report forms (date of occurrence + 3 years)
- Categorising and disposal of waste (creation + 3 years)

Limitations Act 1980:

Sets time limits within which different types of legal proceedings can be commenced. The act informs many of the retention periods listed in Derby Homes' records retention schedule.

Value Added Tax Act 1994:

Stipulates statutory minimum retention periods for:

- Purchase orders (creation + 6 years)
- Delivery and goods received notes (creation + 6 years)
- Income and expenditure accounts (creation + 6 years)
- Management of bank accounts (creation + 6 years)
- Assessment of tax liabilities (current tax year + 6 years)
- Submission of tax returns (current tax year + 6 years)